

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DAMINGO BURKS,

Defendant.

8:19CR26

ORDER

Defendant has requested free copies of the sentencing transcript, docket sheet, and judgment entered in this case. ([Filing No. 57](#).) Defendant contends he needs the documents because he is pursuing postconviction relief and is indigent. Defendant's request for free copies of these documents is denied. Defendant does not have the right to receive copies of the documents without payment, even if he is indigent. [Lewis v. Precision Optics, Inc., 612 F.2d 1074, 1075 \(8th Cir. 1980\)](#). Moreover, Defendant has yet to file a request for postconviction relief.

Defendant has also requested a transcription of his sentencing proceedings pursuant to the Freedom of Information Act, 5 U.S.C. § 552. ([Filing No. 58](#).) Section 552 requires "[e]ach agency" to make available to the public certain records. However, the term "agency" in the Freedom of Information Act does not include the United States courts pursuant to [5 U.S.C. § 551\(1\)\(B\)](#). Therefore, Defendant's request is denied.

Defendant is free to request copies of filings and transcriptions and to pay the costs of the same. However, transcripts will not be prepared without prepayment for the requested transcript(s). Defendant may contact the Clerk's Office of the United States District Court for the District of Nebraska to inquire as to the cost of copies in this matter. The court reporter is directed to provide Defendant with the cost of a transcript of the sentencing proceedings.

IT IS SO ORDERED.

Dated this 3rd day of June, 2021.

BY THE COURT:

s/ Susan M. Bazis
United States Magistrate Judge